

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Clarification of Reconsideration Period and)
Effective Date For Terminations of Wireless) WT Docket No. 05-23
Radio Service Authorizations)
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DECLARATORY RULING

Adopted: January 19, 2005

Released: January 21, 2005

By the Chief, Wireless Telecommunications Bureau:

1. As part of the Commission’s plan to fully implement the Universal Licensing System (ULS), the Commission’s automated licensing system and integrated database for wireless services, the Wireless Telecommunications Bureau (Bureau) has initiated the development of a notification feature through ULS to notify licensees of the automatic termination of authorizations pursuant to section 1.946(c) of the Commission’s rules.1 In this declaratory ruling, we clarify that the Bureau will provide a 30-day period for a licensee to file a petition for reconsideration of a public notice announcing the termination of the licensee’s authorization. We also clarify that the effective termination date associated with an automatic license termination for all wireless radio service licensees that have construction or coverage performance requirements is the date the construction or coverage period expires.

2. In its ULS Notice,2 the Commission proposed that for those licensees that do not file the required notification of completion of construction or satisfaction of coverage requirements, ULS would send a letter advising the licensee of the authorization termination and would generate a public notice

1 See 47 C.F.R. § 1.946(c). In a Public Notice issued today, the Wireless Bureau detailed its plans to enhance ULS to provide for a notification feature in ULS to notify licensees that have construction or coverage performance requirements when their licenses have automatically terminated, to provide a filing period for petitions for reconsideration, and to automatically reflect the status of the license from “active” to “terminated.” See Public Notice “Wireless Telecommunications Bureau to Enhance its Universal Licensing System to More Accurately Reflect Termination of Unconstructed Licenses,” DA No. 05-137 (rel. Jan. 21, 2005) (“ULS Public Notice”).

2 Biennial Regulatory Review -- Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission’s Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, Notice of Proposed Rulemaking, 13 FCC Rcd 9672 (1998) (“ULS Notice”).

announcing the termination, which would be deemed final 30 days after the public notice date.³ In the *ULS Report and Order*⁴ adopting the proposal, the Commission noted that, should the 30-day period elapse without notification from the licensee, the license would then be available for the Commission to reassign by competitive bidding or other means, according to the rules of the particular service.⁵

3. The Bureau has enhanced its procedures using ULS to generate construction reminder letters 90 days prior to the expiration of the relevant construction period to all wireless service licensees that have construction performance requirements. The Bureau is developing additional enhancements to ULS to provide notification of the automatic termination of licenses as set forth in the *ULS Report and Order*. Specifically, 30 days after the relevant construction or coverage period expires without a timely notice of construction or a request for an extension of the construction period, ULS will automatically generate a letter advising the licensee of the automatic license termination and generate a public notice announcing the termination.⁶

4. We are cognizant, however, that while the *ULS Report and Order* provided that a license termination would be deemed “final” 30 days after the public notice date, section 1.946 of the Commission’s rules provides that the licensee’s authorization terminates effective the date its construction or coverage period expires.⁷ Section 1.946(c) further provides that a termination of authorization will take place automatically, without specific Commission action, if the licensee has failed to begin operations or meet its coverage or substantial service obligations by the expiration of the construction or coverage period.⁸

5. With this declaratory ruling, we clarify that the Bureau will provide a 30-day period for licensees to file petitions for reconsideration of a public notice announcing a licensee’s authorization termination. Any petitions for reconsideration must be filed within 30 days of the public notice announcing the termination.⁹ We believe that allowing licensees this reconsideration period is consistent

³ *ULS Notice*, 13 FCC Rcd at 9698, para. 61; *see also* 47 C.F.R. § 1.946 (d). The required construction notification must be filed with the Commission no later than 15 days after the expiration of the applicable construction or coverage period. Licensees may also request an extension of the construction or coverage period before the expiration of the construction or coverage period. 47 C.F.R. § 1.946(e)(1)-(5).

⁴ Biennial Regulatory Review -- Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission’s Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, *Report and Order*, 13 FCC Rcd 21,027 (1998) (“*ULS Report and Order*”).

⁵ *ULS Report and Order*, 13 FCC Rcd at 21,076-77, para.106.

⁶ *See* ULS Public Notice at 1-2.

⁷ *See ULS Report and Order*, 13 FCC Rcd at 21,076-77, para.106; *see also* 47 C.F.R. § 1.946(c).

⁸ 47 C.F.R. § 1.946(c).

⁹ *See* 47 C.F.R. §§ 1.4(b), 1.4(d) for computation of the beginning date and terminal date. For those subject licensees for which a letter and public notice have been issued announcing the license termination, and for which no petition for reconsideration was received by the Commission within the filing period, ULS will reflect the status of such licenses from “active” to “terminated,” after the petition for reconsideration period ends. *See* ULS Public Notice at 1. Notwithstanding the date on which ULS begins to reflect the status change, the effective (continued....)

with the Commission's stated objectives in the *ULS Report and Order* to provide "a licensee that has timely met its construction or coverage obligations with additional notice and the opportunity to prevent termination of its license by submitting documentation that it has timely constructed."¹⁰ However, once the reconsideration period has elapsed, ULS will change the status of the license from "active" to "terminated," and the effective date of automatic termination will be recorded in ULS as the date the construction or coverage period expired.¹¹ Further, consistent with the *ULS Report and Order*, the license will thereafter be available for the Commission to reassign by competitive bidding or other means, according to the rules of the particular service.¹²

6. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 4(j), 5(c) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 155(c) and 303(r), and sections 0.131, 0.331, and 1.2 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331, and 1.2, that this declaratory ruling IS ADOPTED.

FEDERAL COMMUNICATIONS COMMISSION

John B. Muleta
Chief, Wireless Telecommunications Bureau

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date of automatic license termination will be recorded in ULS as the date the construction or coverage period expired.

¹⁰ See *ULS Report and Order*, 13 FCC Rcd at 21,076-77, para. 106.

¹¹ See note 9 *infra*.

¹² *ULS Report and Order*, 13 FCC Rcd at 21,076-77, para. 106.